IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
Before the Board of Patent Appeals and Interferences

In re Patent Application of	Conf. No.: 4670
TARBELL et al.	Atty. Ref.: PTB -4942-5
Serial No. 10/531,260	TC/A.U.: 2164
Filed: April 13, 2005	Examiner: Yuk Ting Choi

For: METHOD, SYSTEM AND SOFTWARE FOR JOURNALING
        SYSTEM OBJECTS

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July 12, 2010

Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

REPLY BRIEF

In response to the Examiner's Answer dated May 10, 2010, Applicant now

submits the following Reply Brief pursuant to 37 C.F.R. § 41.41.

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REMARKS/REPLY-ARGUMENT

This is in response to the Examiner's Answer dated May 10, 2010. The arguments set forth in the Appeal Brief dated March 1, 2010 are incorporated herein by reference, and Applicant will not repeat the same herein. The following arguments are presented in response to the new arguments presented in the Examiner's Answer (e.g., see the "Response to Arguments" section on pages 13-17 of the Examiner's Answer) and also further clarify Applicant's previous positions.

The Examiner's Answer now expressly states that it is the Examiner's position that generating copies of changed system objects is the same as generating copies of changes to system objects. But careful consideration of this statement reveals that the interpretation logically cannot be correct. The Examiner's Answer nonetheless cites to the Applicant's own specification at page 3, line 35; page 4, lines 1-3; and page 4, lines 4-8 and 21-24 in support of this interpretation, apparently arguing that these portions disclose generating copies of changes to system objects using an exit function or a dummy function.

The Examiner's Answer may very well be correct about these limited portions of the specification teaching generating copies of changes to system objects using an exit function or a dummy function. But this does not change the fact that although claim terms are to be given their broadest reasonable construction during prosecution before the USPTO, such interpretations must be consistent with the specification (MPEP 2111). Nor does it change the fact that it is improper to import limitations from the specification into the claims (MPEP 2111.01). In advancing an interpretation that equates generating

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copies of changed system objects with generating copies of changes to system objects, the Examiner's Answer breaks both of these rules.

Although the Examiner's Answer points to the above-noted portions of the specification, the specification also teaches at page 5, lines 5-8 that "Another way that changes to system objects may be journaled during execution of the system function is by associating exit points with the system function so that during execution of the system function an exit program may be called to journal the system objects."

Furthermore, Fig. 1 shows graphically that which is described at page 8, lines 17-23, namely, "The affected object 16 . . . is saved 17 to a temporary *save file* by the MXIICARTET program," and "The temporary *save file* is then copied 18 to a temporary . . . stream file 19 which is journaled to the journal 20. . . . This effectively stores the save image into the journal." Page 10 at lines 8-14 include similar descriptions and reference Fig. 2.

There is no question that these portions of the specification teach journaling fully changed system objects -- not changes to system objects. Thus, even if the Examiner's Answer is right that certain portions of the specification apparently now being relied on teach journaling changes to system objects, the specification also teaches the alternative approach of journaling changed system objects. In equating these two different approaches, the interpretation advanced in the Examiner's Answer expressly conflicts with the specification and therefore violates both MPEP 2111 and MPEP 2111.01.

The rejections must be reversed in view of this erroneous interpretation, inasmuch as Bills is only concerned with journaling changes to system objects and not changed
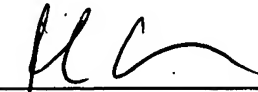
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system objections -- there being a readily apparent difference between these two markedly different approaches, which also happen to be recognized by Applicant's own specification as being two completely different approaches.

The application is in clear condition for allowance, and early reversal of the Final Rejection and passage of the subject application to issue thus are earnestly solicited.

Respectfully submitted,

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By: _____

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